

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Gregory Scott
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by US WEST
Communications, Inc. Requesting Approval of
an Alternative Regulation Plan

ISSUE DATE: November 25, 1997

DOCKET NO. P-421/AR-97-1544

NOTICE OF FILING, AND ORDER
ESTABLISHING PROCEDURES AND
CONVENING SETTLEMENT
CONFERENCE

PROCEDURAL HISTORY

On October 21, 1997, US WEST Communications, Inc. (US WEST or the Company) filed a proposed alternative regulation plan pursuant to Minn. Stat. §§ 237.76 through 237.775.

On November 13, 1997, the Commission met to consider the Company's proposed plan.

I. ALTERNATIVE REGULATION PLANS GENERALLY

Alternative regulation plans are intended to capture the benefits of emerging competition among local exchange carriers. These plans replace rate of return regulation with more flexible pricing procedures.

Carriers operating under alternative regulation must classify all their services as "price-regulated," "flexibly-priced," or "non-price-regulated." They may raise or lower rates for all but price-regulated services with minimal regulatory oversight. Carriers may not raise rates for price-regulated services during the first years of the plan, and may raise them thereafter only under conditions detailed in the plan. They may not reduce rates for price-regulated services below long-run incremental cost at any time.

The plan must contain an existing service quality plan or Commission-approved settlement, or the company must demonstrate that it is in substantial compliance with Commission quality of service rules.

The company must make a commitment to invest in infrastructure improvements and report on its plans to deploy advanced technology, including fiber-optic and broad-band capabilities, during the life of the plan.

II. PROCEDURAL GUIDELINES IN THE STATUTE

The statutes governing alternative regulation plans require the Commission to issue findings of fact and conclusions of law on a proposed plan within six months, unless the Commission and the petitioning company agree to an extension. The statutes exempt proposed plans from the normal contested case process.

The statutes set the broad procedural outline for the Commission's expedited review process. The statutes require the company to provide public notice, encourage public input, mandate settlement discussions, and direct discovery.

FINDINGS AND CONCLUSIONS

I. SUMMARY OF THE COMMISSION'S ACTIONS IN THIS ORDER

In this Order, the Commission will provide for broad notice of US WEST's filing, through service of this Order, filing of the plan, and published and mailed notice.

The Commission will establish the framework for the consideration of the plan, including participation, service and filing requirements, protection of proprietary and trade secret information, and discovery procedures.

The Commission will convene a settlement conference among interested persons and schedule public meetings for public participation.

II. NOTICE OF FILING

A. Service on Potentially Interested Persons

US WEST served its proposed plan on the Department of Public Service (the Department), the Residential and Small Business Utilities Division of the Office of Attorney General (the RUD-OAG), and on parties listed in the Company's general service list.

The Commission will also require US WEST to serve its filing or a summary of the filing on the service list for the Company's incentive plan filing, Docket No. P-421/CI-89-860.¹

Other persons wishing to receive a copy of the plan may contact the Company and request one. The Company's contact person and address are:

US WEST Communications, Inc.
Linda Sadler
Room 390, 200 South Fifth Street
Minneapolis, MN 55402
(612) 663-4541

B. Public Notice

US WEST submitted a proposal for its public notice of the incentive regulation plan. Under US WEST's proposal, the Company will publish a customer notice as a display advertisement in at least one daily newspaper of general circulation in each part of its service area. US WEST will publish the notice twice, once approximately two weeks before the meeting scheduled in a particular area and again approximately three days before the public meeting in a particular area. US WEST submitted proposed notice language with its filing.

¹ Persons appearing on more than one service list need only be served once.

Under US WEST's notice proposal, the Company will also send notices to city clerks and/or city administrators in each municipality in each of its service areas. Finally, US WEST will mail the notice, by billing insert or separate mailing, to its customers no later than two weeks before the first scheduled public meeting.

While the Commission finds the Company's general notice proposal acceptable, the Commission has some concerns regarding the clarity of the notice language and the adequacy of the newspaper coverage. The Commission believes that the exact wording of the proposed notice should be modified to make the meaning more readily understood by the general public. The Commission will therefore require US WEST to work with the Department and the RUD-OAG to develop clearer language for the notice. The Commission authorizes its Executive Secretary to approve or reject the Company's modified language when it is refiled.²

The Commission will also require the Company to file, within 14 days of the date of this Order, a list of the newspapers in which the notice will be published, with anticipated publication dates. The Commission authorizes its Executive Secretary to determine the adequacy of the newspaper coverage. The filing should also include a list of the city clerks/administrators that will be notified.

III. RULES OF PRACTICE AND PROCEDURE TO CONTROL

The Commission's Rules of Practice and Procedure, Minn. Rules, Chapter 7829, control this proceeding, except to the extent that they are superseded by statute or inconsistent with the terms of this Order or subsequent Orders in this case.

Copies of the Rules of Practice and Procedure may be obtained from the Print Communications Division of the Department of Administration or from the Department of Public Service. Their addresses and telephone numbers are as follows:

Print Communications Division
Department of Administration
117 University Avenue
St. Paul, MN 55155
(612) 297-3000

Department of Public Service
200 Metro Square Building
121 7th Place East
St. Paul, MN 55101
(612) 296-6913

IV. PARTICIPATION IN PROCEEDING

Persons wishing to remain on the service list or who would like to be deemed an interested person under Minn. Stat. § 237.61 shall file, within ten days of the date of this Order, the Declaration of Interest Form at Attachment A to this Order. Persons wishing to participate thereafter shall file petitions to intervene under Minn. Rules, part 7829.0800. Such petitions must be filed within 20 days of the date of this Order.

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By letter dated November 17, 1997, the Executive Secretary approved US WEST's revised notice language. The revised customer notice is attached to this Order as Attachment B.

V. SERVICE AND FILING REQUIREMENTS

The Commission will establish and maintain the official service list for this case. The list will include all persons filing Declaration of Interest forms and all persons whose petitions to intervene have been granted by the Commission. The Commission will mail the official service list to all interested persons as soon as it is compiled and whenever it is changed.

Service and filing requirements are set forth in the Commission's Rules of Practice and Procedure, Minn. Rules, Chapter 7829, which all parties are urged to consult.

Interested persons should file an original and 15 copies of all documents on the Commission by submitting them to:

Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East
Suite 350
St. Paul, MN 55101-2147

VI. CHALLENGES TO ADEQUACY OF THE FILING

Any challenge to the completeness or formal adequacy of the Company's filing under Minn. Stat. §§ 237.76 et seq. must be filed within 20 days of the date of this Order. Any response to such challenge must be filed within ten days of the expiration of that 20 day period.

Following receipt of any comments and replies, the Commission will schedule a meeting to determine the formal adequacy and completeness of the Company's proposed plan as the Commission deems necessary. The Commission will reject a filing that it finds to be substantially out of compliance with Minn. Stat. §§ 237.76 et seq.

VII. PROTECTIVE ORDER

In its proposed incentive regulation plan, US WEST requested that it be allowed to provide proprietary information only to the Commission, the Department, and the RUD-OAG. Any interested person may include comments on US WEST's proposed treatment of proprietary information in the party's comments on adequacy of the proposed plan. Interested persons may also submit proposed protective orders within 20 days of the date of this Order.

VIII. DISCOVERY PROCEDURES

All interested persons in this proceeding may serve information requests on all other interested persons. Commission Staff may also serve information requests on any interested persons. Information requests must be filed with the Commission and served on the service list developed for this proceeding.

Information requests must be answered within eight business days of their receipt, including receipt by facsimile transmission. Answers to the information requests must be served on the interested person filing the request and on other interested persons upon request, subject to any protective order established for this docket.

IX. PUBLIC MEETINGS SCHEDULED

Public comment is crucial to making an informed decision on the Company's proposed plan. Two of the prerequisites of alternative regulation--maintaining service quality and improving infrastructure--are issues on which customer input is particularly critical.

The Commission will therefore hold public meetings on the proposed plan throughout the Company's service area, as set forth below:

Monday, January 5, 1998	1:00 P.M.	Minneapolis, MN
Monday, January 5, 1998	7:00 P.M.	St. Paul, MN
Tuesday, January 6, 1998	7:00 P.M.	Duluth, MN
Wednesday, January 7, 1998	1:00 P.M.	Sauk Rapids, MN
Thursday, January 8, 1998	7:00 P.M.	Marshall, MN
Friday, January 9, 1998	3:00 P.M.	Rochester, MN
Tuesday, January 13, 1998	7:00 P.M.	Moorhead, MN

An Administrative Law Judge from the Office of Administrative Hearings will conduct the public meetings and report back to the Commission.

The exact location of each public hearing will be published in the appropriate local newspaper and in the notice to be mailed to customers. See Attachment B to this Order.

X. SETTLEMENT CONFERENCE CONVENED

Minn. Stat. § 237.764, subd. 2 requires the Commission to convene a settlement conference, including all interested persons, to encourage settlement or stipulation of issues.

The Commission directs US WEST to file, within 14 days of the date of this Order, a settlement conference schedule for meetings with the Department, the RUD-OAG, and all interested persons in this matter. The Company shall file reports on the progress of the settlement negotiations within 30 days of the initial settlement meeting and every 30 days thereafter.

Any settlement documents filed with the Commission must include a full explanation of how the settlement, on its merits, furthers the public interest.

XI. FURTHER PROCEEDINGS

The Commission will require interested persons to file comments regarding the proposed plan within 90 days of its filing--that is, by January 20, 1998. Comments should include an analysis and evaluation of the information filed and the merits of the proposed plan, and a statement as to whether the Commission should approve the plan. The comments may also address such issues as US WEST's proposed classification of services, procedures for raising and reducing rates, investment plan, service quality plan, reporting requirements, ratepayer benefits, and whether any changes proposed should be made before the plan is implemented, or phased in during the course of the plan.

Reply comments must be filed within 30 days of the expiration of the comment period; responsive comments must be filed within ten days following expiration of the reply period.

The statute exempts proposed alternative regulation plans from contested case proceedings requirements, instead requiring an expedited proceeding under Minn. Stat. § 237.61. The Commission will therefore schedule a hearing on the merits, pursuant to Minn. Stat. § 237.61, following the expiration of the comment and reply periods. The hearing will largely consist of oral argument, but interested persons shall ensure that their expert witnesses are present to answer questions.

The Commission will issue a decision on the merits within the six-month statutory time line--that is, by April 21, 1998--subject to any extensions to which the Commission and US WEST may agree.

XII. EXECUTIVE SECRETARY AUTHORIZED TO VARY TIME LINES

The Commission delegates to its Executive Secretary the authority to vary time lines set under this Order.

XIII. STAFF AUTHORIZED TO ANSWER QUESTIONS

Any questions concerning this proceeding may be addressed to the following Commission Staff persons: Lee Larson, (612) 296-1334; John Lindell, (612) 297-1398; Clark Kaml, (612) 297-4563; or Lillian Brion, (612) 297-7864.

XIV. EX PARTE COMMUNICATIONS

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission Staff apply to this proceeding from the date of this Order. These restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

XV. ETHICS IN GOVERNMENT ACT

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 et seq. apply to rate setting proceedings. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Minnesota Ethical Practices Board with any questions. The Board's address and telephone number are as follows:

Minnesota Ethical Practices Board
First Floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-5148

ORDER

1. Notice is hereby given that US WEST Communications, Inc. has filed an alternative regulation plan under Minn. Stat. §§ 237.76 through 237.775.

2. Notice is hereby given that the Commission will examine and act on the filing under the procedural framework set forth above.
3. US WEST shall comply with all requirements set forth in the body of this Order.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-4596 (voice), (612) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).